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In The
Supreme Court of the United States

WILLIAM CRAWFORD, *et al.*,

Petitioners,

v.

MARION COUNTY ELECTION BOARD, *et al.*,

Respondents.

INDIANA DEMOCRATIC PARTY, *et al.*,

Petitioners,

v.

TODD ROKITA, *et al.*,

Respondents.

On Writs Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

BRIEF OF UNITED STATES SENATORS MITCH McCONNELL, ROBERT BENNETT, CHRISTOPHER S. "KIT" BOND AND UNITED STATES REPRESENTATIVES ROY BLUNT, LAMAR SMITH AND VERNON EHLERS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS [FEDERAL PREEMPTION AND THE FEDERAL HELP AMERICA VOTE ACT]

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INTEREST OF *AMICI*[1]

Amici are current members of Congress who have significant interest in the resolution of the issue before the Court. Specifically, the *amici* were members of the 107th Congress involved in passage of The Help America Vote Act of 2002 ("HAVA").[2] The *amici* include the Ranking Members of the Committees of the House and Senate with jurisdiction of legislation related to federal elections and members of the Conference Committee created by the two Houses of the 107th Congress to resolve differences between the version of legislation that the House and Senate passed which became The Help America Vote Act of 2002.

HAVA contains minimum election administration requirements with which each State must comply. Congress intended HAVA to supplement, not supplant, the States' election administration requirements, including protections against vote fraud that are more strict than the requirements established by HAVA.

United States Senator Mitch McConnell is the senior United States Senator from the Commonwealth

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[1] Letters of consent by the parties to the filing of briefs by *amici* have been lodged with the Clerk of this Court. Pursuant to Rule 37.6, no counsel for a party authored this brief, in whole or in part. No person or entity other than the *amici curiae* or their counsel made a monetary contribution to the preparation or submission of this brief.

[2] 42 U.S.C. §§ 15301-15545 (2006).

of Kentucky and the Senate Republican Leader. He also is the former chairman and ranking member, and is a current member, of the Senate Rules and Administration Committee, which is the committee responsible for reviewing all proposed legislation and conducting hearings related to federal elections. Leader McConnell presided over numerous hearings on election reform issues, including issues of voter fraud and securing the franchise of every American by combating vote dilution through fraudulent voting. He was the lead Senate sponsor of numerous bipartisan election reform bills and managed the passage of S. 565 on the Senate floor. He was the lead Senate Republican on the congressional Conference Committee on S. 565 and H.R. 3295 and, as such, was involved with the negotiation, compromise and agreement that became the Help America Vote Act of 2002, which passed overwhelmingly in both the House and the Senate and was signed into law by the President.

United States Senator Robert F. Bennett is a Senator from the State of Utah. He is currently the Ranking Member of the Senate Committee on Rules and Administration, which has jurisdiction over, and has conducted numerous hearings on, the conduct of federal elections. During the 107th Congress, Senator Bennett was a member of the Senate Committee on Homeland Security and Governmental Affairs, which closely examined federal election procedures and practices in the aftermath of the 2000 presidential election. Senator Bennett is committed to ensuring

that the federal election system is free of irregularities and fraud and is administered in an open, equitable, and honest manner.

United States Senator Christopher S. "Kit" Bond is the senior United States Senator from Missouri. Prior to his election to the United States Senate, Senator Bond was twice elected Governor of the State of Missouri. Senator Bond played a central role in the drafting, negotiation, debate and passage of the Help America Vote Act of 2002. Senator Bond was one of the five Senators on the congressional Conference Committee that negotiated a compromise and agreement on S. 565 and H.R. 3295.

United States Representative Roy Blunt represents the Seventh District of Missouri and currently serves as the Republican Whip in the U.S. House. Prior to his election to Congress, Representative Blunt served as the Secretary of State of Missouri from 1984 to 1992 and was Missouri's chief election official for a number of elections, including four national elections. Representative Blunt has been involved in a variety of legislative efforts regarding election reform since being elected to the House in 1997 and continues to do so in his current role as the Republican Whip in the House of Representatives. Representative Blunt believes that the final authority for conducting elections is reserved for the individual state governments; however, after witnessing the problems associated with the 2000 election he and others in the Congress believed the integrity of the state electoral processes could be threatened if the

federal government did not move to assist States that wanted to modernize their voting systems. One of those initiatives was H.R. 3295, the Help America Vote Act of 2002 (HAVA). HAVA passed Congress and was signed into law while Representative Blunt served in leadership as the Chief Deputy Whip for the majority. Representative Blunt served as a conferee appointed by the Speaker for the consideration of the House bill and Senate amendments, and modifications committed to conference on the bill, and signed the final conference report (House Report 107-730) for the bill. Representative Blunt was involved in the negotiations resulting in the passage of HAVA and joins as an *amici* to ensure that Congress's intent in passing this important national legislation and the legislative history of HAVA is provided to the Court by those that were directly involved.

United States Representative Vernon J. Ehlers represents the Third District of Michigan. He was the former Chair and currently serves as Ranking Member of the Committee on House Administration. The Committee on House Administration is the committee of jurisdiction for proposed legislation related to federal elections. As a member of the House Administration Committee in the 107th Congress, Representative Ehlers served on the Conference Committee that negotiated the Help America Vote Act of 2002 (HAVA), and is the only current member of the Committee on House Administration who served on the Committee when HAVA was drafted and enacted. Prior to running for Federal Office, Representative

Ehlers served eight years on the Kent County Board of Commissioners where he worked with County, City and Township Clerks on state and local election administration issues. Representative Ehlers is committed to ensuring that every eligible citizen has the right to vote, and that their vote is being accurately counted and not diluted by illegal or improper votes.

United States Representative Lamar Smith is a Member of the United States House of Representatives who represents the 21st District of Texas. He supported passage of the Help America Vote Act as a Member of the House Committee on the Judiciary. Representative Smith is now Ranking Member of the House Judiciary Committee.

In addition to these Members of Congress, a number of other Members have joined in support of *amici*. These other Members are noted in Appendix A.

SUMMARY OF THE ARGUMENT

Article I, § 4, of the United States Constitution delegates to the States broad power to regulate the conduct of federal elections. To ensure that such elections are fair and honest and that all eligible citizens have an opportunity to cast a ballot that is fairly and accurately counted, the States, in exercising their authority under Section 4 of Article I, may enact laws and regulations that protect the integrity of the election system by preventing vote fraud.

The United States Congress passed The Help America Vote Act of 2002 ("HAVA") with the purpose of enhancing the ability of all eligible citizens to cast their ballots and have them counted accurately, while also putting in place strong safeguards against vote fraud. That is, Congress sought to make it "easy to vote but tough to cheat." HAVA included several provisions designed to protect eligible voters from having their votes canceled out by fraudulent or illegally cast ballots, including a requirement that individuals who registered by mail and are first-time voters in a State must provide proof of identity before voting. This voter identification provision is designed to protect against vote fraud committed by means of mail-in voter registration forms.

With the passage of HAVA, Congress established minimum requirements for administering federal elections but made clear that States could enact laws and regulations that are stricter than those in HAVA. In other words, HAVA's requirements serve as a "floor," not a "ceiling."

The statutory language and the legislative history make clear that Congress intended HAVA's anti-fraud provisions to supplement, not supplant, state laws designed to protect the integrity of elections. Thus, States are free to pass new laws or retain existing ones with stronger anti-fraud provisions, including broader voter identification requirements, than those included in HAVA.

ARGUMENT

(1) The United States Constitution Grants Broad Authority to States To Enact Procedures To Prevent Vote Fraud

"[A]s a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes." *Burdick v. Takushi,* 504 U.S. 428, 433 (1992) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983)) (internal quotes omitted). The framers of the Constitution recognized the impracticality of inserting a comprehensive election code into the text of the Constitution and, thus after much debate, agreed to have the States be primarily responsible for regulating the conduct of federal elections, while granting Congress the authority to modify these regulations as it deemed necessary.[3] Therefore, the United States

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[3] It will not be alleged, that an election law could have been framed and inserted in the Constitution, which would have been always applicable to every probable change in the situation of the country; and it will therefore not be denied, that a discretionary power over elections ought to exist somewhere. It will, I presume, be as readily conceded, that there were only three ways in which this power could have been reasonably modified and disposed: that it must either have been lodged wholly in the national legislature, or wholly in the State legislatures, or primarily in the latter and ultimately in the former. The last mode has, with reason, been preferred by the convention.

The Federalist No. 59, 384 (Alexander Hamilton) (Modern Library Coll. Ed. 1937).

Constitution directs the States to prescribe "[t]he Times, Places and Manner of holding Elections for Senators and for Representatives." U.S. Const. Art. I, § 4, cl. 1.

The Court has found that the States, in exercising their power under Section 4 of Article I, possess the authority to enact election regulations "not only as to times and places, but in relation to . . . prevention of fraud and corrupt practices" so as to "enforce the fundamental right involved." *Smiley v. Holm*, 285 U.S. 355, 366 (1932). As this Court noted in *United States v. Classic*, 313 U.S. 299, 329 (1941), "[f]ree and honest elections are the very foundation of our republican form of government. Hence any attempt to defile the sanctity of the ballot cannot be viewed with equanimity." Therefore, "[a] State indisputably has a compelling interest in preserving the integrity of its election process." *Eu v. San Francisco County Democratic Central Comm.*, 489 U.S. 214, 231 (1989).

This Court has repeatedly made clear that vote fraud threatens the democratic process and undermines the confidence the American people have in the federal government. For instance, in *Ex parte Yarbrough (The Ku-Klux Cases)*, 110 U.S. 651, 666 (1884), the Court declared,

> In a republican government, like ours, where political power is reposed in representatives of the entire body of the people, chosen at short intervals by popular elections, the temptations to control these elections by violence and by corruption is a constant source

> of danger. . . . Such has been the history of all republics, and, though ours has been comparatively free from both these evils in the past, no lover of his country can shut his eyes to the fear of future danger from both sources.

More recently, this Court noted,

> Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government. Voters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised. "[T]he right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise."

Purcell v. Gonzalez, 549 U.S. ___, ___, 127 S. Ct. 5, 7 (2006) (per curiam), quoting *Reynolds v. Sims*, 377 U.S. 533, 555 (1964). For these reasons, the Court has construed Article I, § 4, broadly to provide States wide latitude in devising procedures to prevent vote fraud.

(2) When Congress Adopted HAVA, It Intended To Supplement, Not Supplant, State Safeguards That Protect Against Vote Fraud[4]

(a) Congress Recognized That Vote Fraud is a Serious Problem and Enacted Several Provisions To Address This Problem

The conduct of the 2000 presidential election spurred Congress to take a comprehensive look at the nation's election system. Beginning in early 2001, both Houses of Congress held numerous hearings to examine all facets of the election system, including issues relating to voting technology, voter registration, and election integrity.[5] At the same time, former Presidents Gerald Ford and Jimmy Carter co-chaired a bi-partisan commission (The Commission on Federal Election Reform) that investigated the conduct of federal elections and ultimately issued a report recommending several changes to how elections were

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[4] According to the National Conference of State Legislatures, "Twenty-four states have broader voter identification requirements than what HAVA mandates." *Requirements for Voter Identification*, Nat'l Conf. of State Legislatures (Feb. 1, 2007) at http://www.ncsl.org/programs/legismgt/elect/taskfc/VoterIDReq.htm.

[5] *See, e.g., Field Hearing in Atlanta, Georgia to Receive Testimony on Election Reform Before the Senate Committee on Rules and Administration*, 107th Cong. (2001); *Hearing on Federal Election Practices and Procedures Before the Senate Committee on Governmental Affairs*, 107th Cong. (2001); *Hearing On Federal Election Reform Before the House Committee on House Administration*, 107th Cong. (2001).

being administered in this country.[6] These efforts culminated in the passage of The Help America Vote Act of 2002 ("HAVA"),[7] which was passed by overwhelming bi-partisan majorities in both Houses of Congress.[8]

The goal of HAVA was to "make it easier to vote and tougher to cheat." 148 Cong. Rec. S10488 (2002) (statement of Sen. Bond). In other words, "Every American citizen – appropriate age, appropriate qualifications, properly registered – ought to be able to cast a ballot without difficulty. They also ought to be able to do that only once." *Id.* at S710 (statement of Sen. Bond); *see also id.* at S2527 (statement of Sen. Dodd) ("All of us worked many months to develop legislation that would try to meet one central goal; that was to make it easier to vote in America and much harder to corrupt our Federal election system."); *id.* at S2527 (statement of Senator McCain)

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[6] President Bush noted the role of the Carter-Ford Commission's recommendations in the development of HAVA. "The commission that helped inspire this legislation was led by two exceptional Americans, with broad experience in public service: our 38th and 39th President – Presidents. Although Gerald Ford and Jimmy Carter could not be here today, our nation is grateful for their work on election reform and for all they have given to America." Remarks by President at Signing of H.R. 3295, The Help America Vote Act of 2002, October 29, 2002.

[7] 42 U.S.C. §§ 15301 through 15545 (2006).

[8] The House passed HAVA by a vote of 357-48 on October 10, 2002. 148 Cong. Rec. H7853-54 (2002). Then on October 16, 2002, the Senate approved HAVA by a margin of 92-2. *Id.* at S10515.

(Congress "included provisions that would both include mandatory Federal standards to make the election process easier for legitimate voters and prevent voter fraud."). Thus, HAVA was carefully crafted to enhance the ability of each eligible citizen to cast a ballot and have that ballot counted, while also putting in place strong safeguards to protect against efforts to corrupt the election system through fraud.

As HAVA was being developed, Congress recognized that any comprehensive election reform legislation had to include strong anti-fraud provisions because "illegal votes dilute the value of legally cast votes – a kind of disenfranchisement no less serious than not being able to cast a ballot." *Id.* at S10488 (statement of Sen. Bond); *see also Hearing on H.R. 3295 "Help America Vote Act of 2001" Before the House Judiciary Comm.* 107th Cong. (Dec. 5, 2001), *available at* 2001 WL 1552086 (F.D.C.H.) (statement of Rep. Sensenbrenner) ("The basic principle of 'one person, one vote,' one that crosses party lines for voting, is not a partisan issue, it is an American issue. All Americans want to know that the vote they cast, for the candidate of their choice, will be counted fairly and accurately. But, it is also the concern of a great many Americans that widespread voter fraud is discounting or 'canceling' out the value of their legally cast vote."). Consequently, HAVA contains several provisions designed to curb vote fraud. *See* 148 Cong. Rec. S10419 (2002) (statement of Sen. McConnell) ("To protect the integrity of every election, this

conference report makes significant advancements in rooting out vote fraud. Congress has acted properly to curtail fraudulent voting and reduce duplicate registrations. . . . The provisions of this bill are carefully drafted to address this impediment to fair and honest elections, and we provided the States with the means and the resources to address this problem.").

First of all, HAVA requires each State to establish and maintain a centrally administered statewide voter registration database to ensure clean voter lists that are free of duplicate names and ineligible and fictitious persons. 42 U.S.C. § 15483(a)(1)(A). Moreover, to protect against the submission of fraudulent voter registration forms, HAVA mandates that each individual who registers to vote must include on his or her registration form a driver's license number or, if the individual does not have a driver's license, the last four digits of his or her Social Security number; if the individual lacks either number, the State shall assign that individual a unique identifier. *Id.* § 15483(a)(5). HAVA further protects against voter registration fraud by requiring voters who are registering (1) by mail and (2) for the first time in the State to provide a current valid photo identification, or, in the alternative, "a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter." *Id.* § 15483(b)(2)(A)(ii).

According to Senator Mitch McConnell,

> These three provisions [statewide voter registration databases, driver's license number on voter registration form, and voter ID requirement for first-time voters who register by mail] will ensure that dogs . . . will no longer be able to register and vote. These provisions will ensure that our dearly departed will finally achieve everlasting peace and will not be troubled with exercising their franchise every 2 years. And importantly, the provisions will ensure that voter rolls will be cleansed and protected against fraudulent and duplicate registrations.

148 Cong. Rec. S10419 (2002).

With respect to HAVA's anti-fraud provisions, Senator Kit Bond succinctly stated, "[b]y passage of this legislation, Congress has made a statement that vote fraud exists in this country." *Id.* at S10489.

(b) The HAVA Voter Identification Provision Targets the Problem of Vote Fraud Committed By Means of Mail-in Voter Registration Forms

Congress included in HAVA the requirement for first-time voters who register by mail to provide proof of identity before voting to remedy the problem of inflated and inaccurate voter lists – a problem significantly exacerbated by "the abuse of mail registration cards." 148 Cong. Rec. S10489 (2002) (statement of Sen. Bond). Senator Bond, the primary

author of the voter identification provision,[9] explained why this requirement is so important: "[T]he identification provision . . . [is] necessary to guarantee the integrity of our public elections and to protect the vote of individual citizens from being devalued by fraud. Every false registration and every fraudulent ballot cast harms the system by canceling votes cast by legitimate voters. It undermines the confidence of the public that their vote counts and therefore undermines public confidence in the integrity of the electoral process." *Id.*

The problem that voter identification provisions are designed to resolve is not a theoretical one. During the floor debate on HAVA, Senator Bond urged Congress to consider the experience of his

> home State of Missouri, [where] there is abundant evidence of [mail registration] cards being used for the purpose of getting phony names, the names of the deceased and even the names of pets on voter rolls. Someone even registered the deceased mother of

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[9] See 148 Cong. Rec. S10419 (statement of Sen. McConnell) ("[F]irst-time voters who register by mail will have to confirm their identity at some point in the process by photo identification or other permissible identification. This provision was championed by Senator Bond."); *id.* at S10501 (statement of Sen. Dodd) ("We also include provisions which Senator Bond insisted on in terms of responsibility. We are going to make sure we do our best to see to it that people who register to vote are who they say they are, so we don't have people registering fictitious people and casting ballots for them. To Senator Bond's credit, we worked very hard on that.").

> the prosecuting attorney of the City of St. Louis. Names have been registered to drop-houses, businesses, union halls, Mailbox Etc. and vacant lots. From there the people behind the fraud can request an absentee ballot in the name of the voter or attempt to go to the polls and cast a vote under the assumed name.

Id.; *see also Hearing on H.R. 3295 "Help America Vote Act of 2001" Before the House Judiciary Comm.* 107th Cong. (Dec. 5, 2001), *available at* 2001 WL 1552086 (F.D.C.H.) (statement of Rep. Sensenbrenner) ("Part of this problem can be attributed to the significant inaccuracies which exist with the voting rolls. For instance, in Michigan, they discovered one million duplicate registrations when they audited their voter rolls. It has been reported that Philadelphia has the same number of registered voters as there are voting age people living in the city. And in Los Angeles County, it is estimated that 25% of all voter registrations have problems or incorrect information.").

To further underscore the seriousness of the problem, Senator Bond listed the names of a select few voters who had registered via mail-in card: "Barnabas Miller of California, Parker Carroll of North Carolina, Packie Lamont of Washington, D.C., Cocoa Fernandez of Florida, Holly Briscoe of Maryland, Maria Princess Salas of Texas and Ritzy Mekler of Missouri. They are a new breed of American voter. Barnabas and Cocoa are poodles. Parker is a Labrador. Maria Princess is a Chihuahua, Holly is a Jack Russell Terrier, and Ritzy is a Springer-Spaniel." 148 Cong. Rec. S10488 (2002).

Senator Bond concluded, "Now, I like dogs . . . , but I don't think we should allow them to vote. . . . If your vote is canceled by the vote of a dog . . . , it is as if you did not have a right to vote." *Id.*

(c) Congress Expressly Contemplated States Retaining or Adopting Additional Measures To Prevent Vote Fraud and Intended HAVA To Serve as a "Floor," Not a "Ceiling"

The HAVA provisions designed to prevent vote fraud through the abuse of fictional mail-in registrations and subsequent mail-in absentee ballots were not intended to prevent States from adopting additional measures to protect the integrity of the election process. To the contrary, Congress expressly considered, both in HAVA itself and in the legislative history, that States would retain or enact laws and regulations that went further than those included in HAVA. Thus, Congress intended HAVA's voter identification requirement for first-time mail-in registrants, as well as the other anti-fraud provisions included in the bill, to serve as a "floor," not a "ceiling."

Congress unequivocally states in HAVA that the bill's requirements function as a baseline and that States are free to pass even stronger protections.[10] The statute itself makes this clear.

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[10] A Commission co-chaired by former President Jimmy Carter and former Secretary of State James Baker was convened after the 2004 presidential election. This Commission was

(Continued on following page)

Section 15484 of the statute reads that its requirements "are *minimum requirements*" and that HAVA shall not be construed "*to prevent a State from establishing* election technology and *administration requirements that are more strict than the [Federal] requirements* . . . so long as such State requirements are not inconsistent with the Federal requirements. . . ." 42 U.S.C. § 15484 (emphasis added). Thus, the statute is unambiguous in expressing that States may adopt requirements stricter than those in HAVA.

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the successor to the Carter-Ford Commission, see *supra* note 6, and included many of the same members. The Carter-Baker Commission proposed a number of recommendations for further post-HAVA election reform, including a recommendation advocating voter identification requirements.

> To ensure that persons presenting themselves at the polling place are the ones on the registration list, the Commission recommends that states require voters to use the REAL ID card, which was mandated in a law signed by the President in May 2005. The card includes a person's full legal name, date of birth, a signature (captured as a digital image), a photograph, and the person's Social Security number. This card should be modestly adapted for voting purposes to indicate on the front or back whether the individual is a U.S. citizen. States should provide an EAC-template ID with a photo to non-drivers free of charge.

Final Report of the Commission on Federal Election Reform, *Building Confidence in U.S. Elections* (Sept. 2005) at 18-21. Thus, the Carter-Baker Commission members (again, many of whom had been members of the Carter-Ford Commission, and whose efforts significantly contributed to the ultimate passage of HAVA) clearly understood that HAVA did not limit the States' ability to enact requirements more stringent than those in HAVA.

Furthermore, the legislative history makes entirely clear that Congress contemplated and approved of state anti-fraud measures that are more robust than those in HAVA. With regard to the voter identification provision, Senator Bond stated,

> The conferees recognize that many States have taken steps to address fraud. *A number of those steps may go beyond that set in this bill.* It is the agreement of the conferees that *this bill in no way limits the ability of the states from taking steps beyond those required in this bill.* For instance, several States require those who register by mail to vote in person the first time they vote. This bill does not limit a State from taking this additional step to address fraud. *Each of the steps taken in this bill to address fraud shall be considered to be a minimum standard.*

148 Cong. Rec. S10490 (2002) (emphasis added).

Congress's understanding that HAVA established minimum requirements that the States may exceed is spelled out with respect to other anti-fraud provisions in HAVA as well. For example, the States may require more information on a voter registration form than is required under § 15483(a)(5) of HAVA (requiring a voter registration form to contain either a registrant's driver's license number or, if the registrant does not have one, the last four digits or the registrant's Social Security number).[11] "It is important to note that

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[11] *See* "SPECIAL RULE FOR CERTAIN STATES. – In the case of a State which is permitted to use social security numbers, and

(Continued on following page)

states that utilize full social security numbers for voter registration applicants can continue to do so after passage of this legislation. This new registration requirement is a minimum standard. If a state requires applicants to provide more information – such as their entire nine-digit social security number – this legislation will not override that state requirement. . . . We have seen that States that require additional identifying information from registrants have substantially fewer duplicate and fraudulent registrations on their voter rolls." 148 Cong. Rec. S10490, S10492-93 (2002) (statement of Sen. Bond).

Furthermore, with regard to state laws governing who may "challenge" a suspected fraudulent voter, "[I]f State law permits the challenge of provisional voters by someone other than election officials, this legislation [HAVA] does not prevent that particular State practice." *Id.* at S10493 (statement of Sen. Bond).

In short, when it enacted HAVA, Congress specifically expressed that the bill's mandates would be "minimum requirements," and that States were permitted to pass new laws or retain existing ones with even stronger anti-fraud provisions, including more robust voter identification requirements. The statutory language and the legislative history make this fact abundantly clear.

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provides for the use of social security numbers, on applications for voter registration, . . . the provisions of this paragraph shall be optional." 42 U.S.C. § 15483(a)(5)(D).

CONCLUSION

As the discussion above clearly shows, when Congress adopted HAVA, it intended to supplement State laws designed to combat vote fraud, not supplant them. The HAVA voter identification requirements are, as the statute expressly states, *minimum* requirements. The requirements in HAVA serve as a "floor," not a "ceiling," and States are free to adopt election regulations that go beyond the minimum requirements set forth in HAVA.

Respectfully submitted,

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APPENDIX A

MEMBERS OF THE UNITED STATES HOUSE OF REPRESENTATIVES IN SUPPORT OF *AMICI CURIAE*

1. **Todd Akin (MO-2)**
2. **Kevin Brady (TX-8)**
3. **Dan Burton (IN-5)***
4. **Steve Buyer (IN-4)***
5. *Tom Cole (OK-4)*
6. David Davis (TN-1)
7. **John Doolittle (CA-4)**
8. Tom Feeney (FL-24)
9. Trent Franks (AZ-2)
10. Luis Fortuno (PR-AL)
11. Virginia Foxx (NC-5)
12. Scott Garrett (NJ-5)
13. Phil Gingrey (GA-11)
14. Louis Gohmert (TX-1)
15. *Dean Heller (NV-2)*
16. Jeb Hensarling (TX-5)
17. **Wally Herger (CA-2)**
18. **Darrell Issa (CA-49)**
19. **Sam Johnson (TX-3)**
20. Jim Jordan (OH-4)
21. Steve King (IA-5)
22. **Jack Kingston (GA-1)**
23. Dan Lungren (CA-3)
24. Kevin McCarthy (CA-22)
25. *Candice Miller (MI-10)*
26. Marilyn Musgrave (CO-4)